THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.10510 of 2002

15.6.2007

Between:
K.Abbai Dora, S/o.Tammanna Dora

… Petitioner

AND

The Special Deputy Collector, Tribal Welfare, Rajavommangi, East Godavari District And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.10510 of 2002

ORDER:

The petitioner is a Scheduled Tribe belonging to Koya caste. He statedly is in possession of lands in R.S.Nos.47/1 (Acs.2.75), 47/1C (Acs.0.33) and 47/3 (Acs.7.13) situated at Kondapalli village of Rajavommangi Mandal in East Godavari District, for over four decades. He also obtained Pattadar Pass Book from the revenue officials. One Pusam Chinnala Dora filed a complaint before the first respondent in 1981. The same being LTRP No.132/1981 was indeed in favour of the petitioner's brother to whose property the petitioner succeeded. LTRP No.132 of 1981 was dismissed by the first respondent on 04.12.1981. Sixteen years thereafter at the behest of third respondent, Special Deputy Tahsildar (Tribal Welfare), Rajavommangi, initiated proceedings under Section 3(2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, as amended by Regulation I of 1970 (Regulations, for brevity), before the first respondent. The same being LTRP No.57 of 1997 was dismissed by the first respondent on 21.10.1998. Nonetheless the first respondent issued another notice under Rule 7(2) in Form-E. Aggrieved by the same, petitioners filed the instant writ petition in effect seeking a writ of prohibition restraining the first respondent to proceed with the case. The main contention of the petitioner is that the order of the first respondent in LTRP No.132 of 1981 and LTRP No.57 of 1997 operate as *res judicata* and first respondent cannot be permitted to proceed with the case.

After hearing learned Counsel for petitioner and learned Government Pleader for Social Welfare, we have convinced that as the

writ petition is filed against the notice in Form-E, the same cannot be entertained at this stage. It is axiomatic that ordinarily a writ petition against the show cause notice would not lie and even questions as to jurisdiction or inherent lack of jurisdiction of the notice issuing authority have to be raised by them before such authority (see **Special Director v Mohd. Ghulam Ghouse**[1]). In view of this, without expressing any opinion on the merits of the case, giving liberty to the petitioner to raise all the grounds before the first respondent, we dispose of the writ petition directing the first respondent to dispose of the matter within a period of eight weeks from the date of receipt of a copy of this order. It shall be open to the petitioner to place all the material before the first respondent. As this Court passed orders of *status quo* on 14.6.2002, the same shall continue till the proceedings are finalized by the first respondent.

The writ petition, with the above observations and directions, is disposed of. No costs.

(**V.V.S.RAO,J**)

(**G.V.SEETHAPATHY,J**)

June 15, 2007.
NOTE:
Dispatch order copy by
18.6.2007.
(By order)
YS

[1] (2004) 3 SCC 440